

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2574 OF 2003

Mr.S.V. Pitre for the Petitioner.

Mr.A.H.Palekar, AGP for the State.

Office Notes, Office
Memoranda of Coram,
appearances, Court's
order or directions

Court's or Judge's
orders

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CORAM: D.K.DESHMUKH, J.

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DATED: 27TH APRIL, 2005

P.C.:

Admitted position is that the Respondent was working as a peon from 1991 and he was the permanent employee. It appears to be admitted position that in the common seniority list of all peons, he was at serial No.5 and there were persons below him in that seniority list. Retaining his juniors in service his services were terminated. Therefore, termination of the services of the Respondent was plainly illegal. That the

Respondent was at that time working in the department which was closed cannot be an excuse, because if that department is closed the Respondent being a peon, who requires no special qualification for working in the department, may have been shifted to other department. That some department is getting grant from different authority is not relevant for the purpose of deciding rights under the M.E.P.S. Act.

2. I do not find any error in the order passed by the School Tribunal. The order passed by the School Tribunal is perfectly just and legal. That the Petitioner is willing to accommodate the Respondent in a subsequent vacancy without paying him back wages, in my opinion, was not a fair proposal. As the termination of the services of the Respondent was plainly illegal, he is entitled to full benefits of back wages and reinstatement. Petition has no substance. It is rejected.